

Remarks

Claims 1-4, 8 and 9 were pending and stand rejected. Claims 1 and 9 have been amended. Claim 8 has been canceled. Reconsideration is respectfully requested in view of the above amendments and the following remarks.

Claims 1-4, 8, and 9 were rejected under 35 USC 103(a) as being unpatentable over Hofer et al. The Examiner asserted that Hofer et al. teach a method of using macrolides to control pests and that numerous actives, including carfentrazone-ethyl, can be added to the macrolides. The Examiner recognized that Hofer et al. do not teach a method of applying macrolides plus carfentrazone-ethyl to stone fruit or vine seeds. The Examiner asserted, however, that this would be obvious since the prior art suggests treating said propagation of plums and vines with carfentrazone-ethyl – however, the Examiner failed to identify any prior art that “suggests treating said propagation of plums and vines with carfentrazone-ethyl.” Thus, applicants submit that the Examiner has failed to make out a proper rejection under 35 USC 103(a). Moreover, applicants submit that Hofer et al. is directed to the use of macrolides to control pests. The addition of carfentrazone-ethyl is one of many possible active ingredients that can be combined with the claimed macrolides. There is nothing in Hofer et al. that teach or suggest the currently claimed method for controlling unwanted ground shoots of vines and stone fruit trees, which comprises applying from about 12 g/hl to about 36 g/hl of carfentrazone-ethyl to a locus where said ground shoots are growing. Accordingly, applicants request that this rejection be withdrawn.

Claims 1, 2, 8, and 9 were rejected under 35 USC 103(a) as being unpatentable over Bieringer et al. The Examiner asserted that Bieringer et al. suggest a composition comprising hydroxyphenylpyruvate plus carfentrazone-ethyl and applying such composition to harmful plants or parts thereof to control their growth in crops, including the composition’s application in viticulture. The Examiner then asserted that Bieringer et al. do not exemplify a method of applying hydroxyphenylpyruvate plus carfentrazone-ethyl in viticulture applications. The Examiner concluded that it would have been obvious to arrive at the claimed invention since the prior art suggests using carfentrazone-ethyl in viticulture. Applicants respectfully disagree with the Examiner’s conclusions.

Bieringer et al. is directed to the combination of hydroxyphenylpyruvate with a number of different herbicides. There is nothing in the disclosure of Bieringer et al. that discloses or suggests the claimed method for controlling unwanted ground shoots of vines and stone fruit trees, which comprises applying from about 12 g/hl to about 36 g/hl of carfentrazone-ethyl to a locus where said ground shoots are growing. Accordingly, applicants request that this rejection be withdrawn.

Claims 1, 2, 8, and 9 were rejected under 35 USC 103(a) as being unpatentable over Hacker et al. The Examiner asserted that Hacker et al. suggest a composition comprising carfentrazone-ethyl and applying the composition to harmful plants or parts thereof to control their growth in crops, including the composition's application in viticulture application. The Examiner then stated that Hacker et al. do not exemplify a method of applying carfentrazone-ethyl in viticulture applications, but this would be obvious since the prior art suggests using carfentrazone-ethyl in viticulture – however, the Examiner failed to identify the prior art that suggest using carfentrazone-ethyl in viticulture. Thus, applicants submit that the Examiner has failed to make out a proper rejection. Moreover, Hacker et al. teach an herbicidal composition comprising 2-[2-chloro-3-(2,2,2-trifluoroethoxymethyl)-4-methylsulfonylbenzoyl]cyclohexane-1,3-dione combined with at least one other compound (carfentrazone-ethyl being one of many possible other compounds listed). There is nothing in the teaching of Hacker et al. that teach or suggest the currently claimed method for controlling unwanted ground shoots of vines and stone fruit trees, which comprises applying from about 12 g/hl to about 36 g/hl of carfentrazone-ethyl to a locus where said ground shoots are growing. Accordingly, applicants request that this rejection be withdrawn.

As all of the outstanding rejections have been addressed and overcome, applicants respectfully request that the Examiner issue a favorable action on the merits.

Should the Examiner have any questions, the Examiner is invited to telephone applicants' undersigned representative.

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Respectfully submitted,

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